

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendrayner
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Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Commission Review and
Investigation of Qwest's Unbundled Network
Elements Prices

ISSUE DATE: September 24, 2003

DOCKET NO. P-421/CI-01-1375

In the Matter of the Commission's Review and
Investigation of Certain Unbundled Network
Element Prices of Qwest

DOCKET NO. P-442, 421, 3012/M-01-1916

ORDER APPROVING ELEMENT
DESCRIPTIONS

PROCEDURAL HISTORY

On October 2, 2002, the Commission issued its ORDER SETTING PRICES AND ESTABLISHING A PROCEDURAL SCHEDULE, based on the record of this case including the recommendations of two administrative law judges (ALJs). Among other things, the Order directed Qwest Corporation (Qwest) to provide a description of the "unbundled network elements" (UNEs) it offers for sale to competitive local exchange carriers (CLECs).

On May 14, 2003, Qwest filed a list of elements and their definitions. According to Qwest, the list reflects the combined efforts of Qwest, CLECs and the Minnesota Department of Commerce (the Department).

The matter came before the Commission on September 4, 2003. No party objected to Qwest's filing.

FINDINGS AND CONCLUSIONS

I. The Telecommunications Act of 1996 and Unbundled Network Elements

The Telecommunications Act of 1996¹ was designed to open all telecommunications markets to competition, including the local exchange market. (Conference Report accompanying S. 652). The Act opens markets by requiring an incumbent local exchange carrier (ILEC) such as Qwest to –

¹ Pub.L.No. 104-104, 110 Stat. 56, codified in various sections of Title 47, United States Code.

- permit CLECs to purchase its services at wholesale prices and resell them to customers;
- permit CLECs to interconnect with its network on just, reasonable and non-discriminatory terms; and
- offer unbundled network elements (UNEs) – that is, offer to rent elements of its network to CLECs without requiring the CLEC to also rent unwanted elements – on just, reasonable, and nondiscriminatory terms.

47 U.S.C. § 251(c). A CLEC desiring to provide local exchange service can seek agreements with an ILEC related to interconnecting with the ILEC's network, buying finished services for resale, and buying the ILEC's UNEs. 47 U.S.C. §§ 251(c), 252(a). If the ILEC and the CLEC cannot reach agreement, either party may ask the State commission to arbitrate unresolved issues and to order terms consistent with the Act. 47 U.S.C. § 252(b).

This docket results, in part, from a request to arbitrate terms for interconnection agreements.

II. The October 2, 2003 Order

As part of its ORDER SETTING PRICES AND ESTABLISHING A PROCEDURAL SCHEDULE (October 2, 2003), the Commission recognized the concerns raised by various parties and the ALJs about the need to have clear explanations for the items on Qwest's bills, especially the UNEs.

There is little point in establishing costs related to mere labels; costs must correspond to real world phenomena. If Qwest intends to charge a CLEC for an element or a service, Qwest should be able to say what the charge is for. The description should conform to how an element is used in the relevant cost model, and provide sufficient information to let purchasers determine what they want to buy and whether they have received it.

October 2, 2003 Order at 10. The Commission directed Qwest to file clear and concise descriptions for each existing element, and for new elements as they develop. *Id.* at 10, 13 and A-7.

III. The Proposed Definitions

Qwest's May 14, 2003 filing contains 58 pages of elements and their descriptions. The descriptions set forth what a CLEC should expect to receive when it buys any given element from Qwest, and how Qwest would charge for the element – for example, on a non-recurring or recurring (monthly) basis.

According to Qwest, these definitions were the product of hundreds of hours of work and several meetings involving Qwest, CLECs and the Department. Qwest thanks all parties for their help in working toward a common understanding of these elements.

As noted above, no party has opposed Qwest's filing.

IV. Commission Action

The Commission appreciates the work of all the parties in resolving these issues. Many future misunderstandings and disputes may be avoided as a result of these efforts.

On the basis of the record of this case, and finding no objection to Qwest's filing, the Commission finds the proposed list of elements and descriptions reasonable. Consequently, it will be approved as attached.

ORDER

1. Qwest's list of elements and their definitions is approved.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

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